IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5669 OF 2004

IN

Sessions Case No. 50/2003.

Shri Lokesh @ Nagesh Sina Shetty .. Applicant.

V/s.

The State of Maharashtra .. Respondent.

Shri R.V. Gupta for the Applicant.
Shri D.R. More, APP for the Respondent.

CORAM : A.M.KHANWILKAR, J.
DATED : FEBRUARY 15, 2005

PC :-

1. Heard counsel for the parties. Perused the record. There are strong circumstances to indicate complicity of the applicant in the commission of the crime, which indeed is of a serious nature. The applicant is not only identified by the Bank employees but also by the Hotel owner where the applicant alongwith others had visited as also by the Lodge owner when the applicant had stayed before the offence was committed. The argument that there is delay of two months in conducting the identification parade is a matter for trial. As it appears that soon after the applicant was sent to the judicial custody, the investigating agency applied for conducting the

identification parade on 4th of July, 2003 but for some reasons beyond the control of the investigating agency, the identification test of the applicant's was done on 19th August, 2003. Viewed in this perspective, the question of delay in conducting identification parade will have to be considered at the trial and that alone cannot be the basis for grant of bail. Besides, the article which is the stolen property has been recovered from Manojkumar Jain with whom the same was pledged by Ravi Shetty and Vasant Pujari. It is the prosecution case that the same was done at the instance of the present applicant. Once again this aspect will have to be established at the trial. In other words, it is not a case that there is no evidence at all to indicate complicity of the applicant in the commission of the offence. Having regard to the seriousness of the offence, not a case for bail.

2. Counsel for the applicant however, placed reliance on the decision of the Apex Court in the case of 2000 ALL MR (CRI) 1238 between Vivek Kumar vs. State of U.P. to contend that in that case since the applicant was in jail for a long time without trial, was released on bail. In the present case, however, I

am informed that the charge has already been framed and the trial has commenced. The only limited relief that can be given to the applicant is to direct the District and Sessions Judge, Sangli to assign the case to fast track court, if already not assigned, to ensure early disposal of the trial. According to the learned APP, the trial can be concluded by the end of May, 2005 if the same is assigned to the fast track court. The trial court shall keep in mind that the applicant is in custody since June 2003 and therefore, dispose of the trial as expeditiously as possible.

3. Ordered accordingly.

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